

UNITED STATES DISTRICT COURT

FEB 06 2020

for the
District of New MexicoMITCHELL R. ELFERS
CLERKIn the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)Leonard B. Ray
YOB: 1950
SSN: XXX-XX-6286

Case No.

20mr197

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A

located in the _____ State & _____ District of _____ New Mexico _____, there is now concealed (identify the person or describe the property to be seized):

See Attachment B

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
- ☐ contraband, fruits of crime, or other items illegally possessed;
- ☐ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section
Title 18 USC 2242(1)

Sexual Assault

Offense Description

The application is based on these facts:

See attached affidavit

- ☒ Continued on the attached sheet.
- ☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

James R. Jojola

Applicant's signature

James R. Jojola, BIA/OJS Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: Feb. 6, 2020

John F. Robbenhaar

Judge's signature

City and state: _____

JOHN F. Robbenhaar, United States

Printed name and title Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW MEXICO

UNITES STATES OF AMERICA)
)
VS.)
)
LEONARD B. RAY (YOB: 1950))

Case No: _____

AFFIDAVIT

I, JAMES R. JOJOLA, being duly sworn, depose and state as follows:

1. I have been a Law Enforcement Officer for 23 years and performed law enforcement duties as a Police Officer and Supervisory Police Officer while employed with the various Law Enforcement entities. For the past 19 years, I have been employed with the Bureau of Indian Affairs (BIA), Office of Justice Services (OJS) and am currently a Special Agent. My primary duties as a Special Agent are to investigate felony criminal offenses, which occur within the exterior boundaries of the Indian reservations to which I am assigned. Sexual assaults are one of my responsibilities. The information set forth in this affidavit is known to me as a result of my own investigation or has been communicated to me by other law enforcement officers, agencies or agents.

2. Because this affidavit is being submitted for the purpose of securing a Search Warrant, I have not included each and every fact known to me concerning this investigation. I have set forth facts I believe are necessary to establish Probable Cause to obtain DNA from

LEONARD B. RAY (YOB: 1950), herein referred to as L.Ray within this affidavit, to wit: Deoxyribonucleic Acid (DNA) profiles to be utilized to identify DNA on the victim's underwear which were submitted to the New Mexico Department of Public Safety Forensic Laboratories. The submitted underwear was tested in conjunction with a Sexual Assault Evidence Kit (SAEK) of the victim. The results of the forensic testing of the underwear revealed saliva and human DNA was identified on SAEK breast and vaginal swabs that were taken from the victim. However, in an abundance of caution, the United States seeks to match the DNA of L. RAY with the saliva found on the victim's underwear and the human DNA found on the SAEK swabs taken from the body of the victim. The victim will herein be referred to as JANE DOE within this affidavit.

PROBABLE CAUSE

3. The victim is JANE DOE (YOB: 2000), a Native American female and enrolled tribal member of the Acoma Indian Tribe, State of New Mexico.

4. The suspect is L. RAY, a Native American male and enrolled tribal member of the Acoma Indian Tribe, State of New Mexico.

5. On March 20, 2019, at about 7:40 a.m., the Acoma Police Department received a telephone from JANE DOE who reported she was sexually assaulted. Acoma Police responded and made contact. JANE DOE stated she was sexually assaulted by L. RAY at 73 Pinon Street, Cedar Hills Apartment #309, Acoma, New Mexico. Acoma Police Officer Melvin Torivio

notified Bureau of Indian Affairs (BIA), Office of Justice Services (OJS), Laguna Agency, Special Agent (SA) Marcelino ToersBijns. SA ToersBijns initiated an investigation.

6. On March 27, 2019, SA ToersBijns interviewed JANE DOE. JANE DOE identified L. RAY as her biological grandfather and a religious traditional leader within the Pueblos of Acoma native culture. On the day of the assault, L. RAY had taken JANE DOE and her brother to a doctor's appointment at a local hospital in Acoma. After leaving the hospital they went to her parent's homes where JANE DOE resides and they ate dinner. After dinner, JANE DOE asked L. RAY for a back rub, which was not uncommon. L. RAY began rubbing her back. During the back rub, L. RAY began touching JANE DOE'S breast (skin to skin contact) and her vagina (skin to skin & digital penetration). JANE DOE explained it didn't feel right and she was scared and was crying. JANE DOE described the pain she was feeling when L. RAY had his finger (s) inside her and stated it was as if someone was pulling down her intestines. JANE DOE stated she did not know what to do. JANE DOE'S little brother knocked on the door and rang the doorbell due to the door being locked. L. RAY stopped his actions and opened the door and her brother came in. JANE DOE'S little brother went back outside and L. RAY told her to go into the bedroom. While in the bedroom on the bed, L. RAY sexually assaulted JANE DOE by touching her breasts and digitally penetrated her with his mouth to the vulva. L. RAY attempted to use his penis to penetrate JANE DOE'S vagina. JANE DOE told L. RAY to stop but he continued. JANE DOE stated she felt something "gooey" and warm between her legs. JANE DOE stated L. RAY stopped his actions because her brother was knocking on the back door. JANE DOE text her parents telling them she had bad news for them. When JANE DOE saw her parents she told them L. RAY "raped" her.

7. SA ToersBijns conducted interviews with JANE DOE'S mother and father. Both her parents affirmed JANE DOE told them she was "raped" by her grandfather. On the same night JANE DOE told her parents, her father took JANE DOE to the Albuquerque Sexual Assault Nurse Examiners (SANE) Office. A sexual assault exam was completed on JANE DOE. The SANE examination documented linear tears between the vulva and anus.

8. On April 1, 2019, Special Agent ToersBijns and Acting Special Agent Gwendolyn Smith conducted an interview of L. RAY. L. RAY was advised of the allegations brought against him. L. RAY voluntarily agreed to the interview. L. RAY admitted to becoming sexually aroused while rubbing JANE DOE's back. L. RAY admitted to touching JANE DOE's breast while on the living room floor. L. RAY admitted to going into JANE DOE's room where he also touched JANE DOE's breast, digitally penetrated her vulva, and placed his mouth onto her vulva. L. RAY admitted he attempted to have sexual intercourse with JANE DOE, but was unable to have an erection. During the interview, L. RAY was told by law enforcement JANE DOE did not want the sexual acts to occur. L. RAY stated JANE DOE was controlling his hands and made him touch her.

9. SA ToersBijns submitted JANE DOE'S underwear, sexual assault kit and a swabbing of a stain on the bedroom mattress to the New Mexico Department of Public Safety Forensic Laboratory for testing. The submitted underwear were tested in conjunction with the Sexual Assault Evidence Kit (SAEK) of JANE DOE. The results of the forensic testing of the underwear revealed saliva and human DNA was identified on the SAEK breast and vaginal swabs that were taken from JANE DOE. The United States seeks to match the DNA of L. RAY with the saliva found on JANE DOE'S underwear and the human DNA found on the SAEK swabs taken from the body of JANE DOE.

10. The sexual abuse occurred at an apartment identified as 73 Pinon Street, Cedar Hills, Apartment #309 Acoma, New Mexico, in Cibola County. This residence is located within the exterior boundaries of the Acoma Indian Reservation, State of New Mexico, and is considered "Indian Country."

11. Based on the above mentioned facts, known to me concerning this investigation, the Affiant respectfully requests that a search warrant be issued for LEONARD B. RAY, to collect a buccal swab to obtain cells for forensic analysis and for the use of evidence in court as your Affiant believes there is probable cause to suggest L. RAY committed the crime of Sexual Abuse of JANE DOE in violation of Title 18, United States Code, Sections 1153 and 2242 (1) Sexual Abuse.

12. I swear that this information is true and correct to the best of my knowledge and belief. This affidavit has been reviewed by Assistant United States Attorney Novaline Wilson of the District of New Mexico United States Attorney's Office.

Affiant:



James R. Jojola
Special Agent
Bureau of Indian Affairs

JFR
Subscribed to and sworn
before me, this ~~5th~~^{6th} day
of February 2020.



UNITED STATES MAGISTRATE JUDGE

ATTACHMENT A
ITEMS TO BE SEARCHED

Evidence of Title 18, U.S.C. Section 1153 Offenses committed within Indian country, Title 18, U.S.C. Section 2242(1) Sexual Abuse.

- 1) Leonard B. Ray, Year of birth: 1950, Social Security Number: XXX-XX-6286.

ATTACHMENT B
ITEMS TO BE SEIZED

Evidence of Title 18, U.S.C. Section 1153 Offenses committed within Indian country and Title 18, U.S.C. Section 2241(1) Sexual Abuse.

- 1) DNA sample(s) from Leonard Ray in the form of buccal swabs.